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August 21, 2015

VIA ECF

Hon. Thomas P. Griesa
United States District Judge
United States Courthouse
500 Pearl Street
New York, New York 10007

Re: Lyman Commerce Solutions, Inc. v. Conrad Lung et al.
Index No. 12 Civ. 4398 (TPG)

Dear Judge Griesa:

I represent plaintiff Lyman Commerce Solutions, Inc. in the above-referenced matter. I write seeking the Court's permission to register the Judgment entered against Defendant R.D. Simpson, Inc. in another district, pursuant to 18 U.S.C. § 1963. I have conferred with counsel for R.D. Simpson, who has advised me that R.D. Simpson does not oppose this application.

On July 16, 2015, the Court issued an Opinion and Order directing entry of a partial final judgment against four of the defendants in this action, including R.D. Simpson. (Docket No. 111). On July 20, 2015, the Clerk of the Court entered judgment in favor of Plaintiff against R.D. Simpson in the amount of \$2,799,487.85. (Dkt. No. 112) ("the Judgment"). R.D. Simpson filed a timely notice of appeal. No supersedes bond has been posted and enforcement of the Judgment has not been stayed.

We ask the Court for permission to register the Judgment in the United States District Court for the Northern District of Georgia. The basis for this request is: (1) the absence of known assets belonging to R.D. Simpson in the Southern District of New York; and (2) the existence of significant known assets

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belonging to R.D. Simpson in the Northern District of Georgia. A judgment may be registered in another district on order of this Court “for good cause shown.” 28 U.S.C. § 1963. In this district, “good cause is established when a judgment debtor has (1) substantial property in the other district and (2) insufficient property in this district.” *Ambac Assur. Corp. v. Adelanto Pub. Util. Auth.*, 2014 U.S. Dist. LEXIS 87697, at *10 (S.D.N.Y. June 26, 2014) (collecting cases).

This Court retains jurisdiction to entertain a motion under Section 1963, notwithstanding the pendency of appeal. See *Capitol Records, Inc. v. MP3tunes, LLC*, 2015 U.S. Dist. LEXIS 98681, *8-9 (S.D.N.Y. July 6, 2015). A judgment of a district court may be registered in another district “when . . . ordered by the court that entered the judgment for good cause shown.” 28 U.S.C. § 1963. “Good cause” is established “upon a mere showing that the [party against whom the judgment has been entered] has substantial property in the other [foreign] district and insufficient [property] in the rendering district to satisfy the judgment.” *Jack Frost Laboratories, Inc. v. Physicians & Nurses Mfg. Corp.*, 951 F. Supp. 51, 52 (S.D.N.Y. 1997).

That standard is readily met here. Plaintiff has been unable to locate any assets belonging to R.D. Simpson in the Southern District of New York. See Declaration of Paul Hugel ¶ 2, attached as Exhibit A (“Hugel Decl.”). Plaintiff has, however, been able to identify two parcels of unencumbered real property owned by R.D. Simpson in Cartersville, Georgia which is located in the Northern District of Georgia. *Id.* ¶ 3.

Accordingly, in order to enforce this Court’s Judgment, Plaintiff requests that the Court issue an order pursuant to 28 U.S.C. § 1963 finding good cause to allow the registration of the Judgment in the United States District Court for the Northern District of Georgia.

Very truly yours,



Paul S. Hugel

cc: All counsel (via ECF)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

LYMAN COMMERCE SOLUTIONS, INC.,

Plaintiff,

-against-

CONRAD LUNG,
RICHARD GILBERT,
LUNG'S CONSULTANTS LLC,
R.D. SIMPSON, INC.,
THE RICHARD GILBERT FAMILY TRUST, and
IRWIN LEVY AS TRUSTEE OF THE RICHARD
GILBERT FAMILY TRUST

Defendants.

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DECLARATION OF PAUL HUGEL
IN SUPPORT OF PLAINTIFF'S APPLICATION TO REGISTER THE JUDGMENT
AGAINST R.D. SIMPSON, INC. IN ANOTHER DISTRICT

PAUL S. HUGEL hereby declares under penalties of perjury:


1. I am a member of the law firm of Clayman & Rosenberg LLP, attorneys for Plaintiff Lyman Commerce Solutions, Inc. I offer this declaration in support of Plaintiff's unopposed application, pursuant to 28 U.S.C. 1963, to register the judgment entered by this Court on July 20, 2015, against R.D. Simpson, Inc. in another district.

2. I have conducted searches for property owned by R.D. Simpson, Inc. in New York, but I have been unable to locate any such property. Based upon records maintained by the New York State Department of State, R.D. Simpson, Inc. is not authorized to conduct business in the State of New York and I have no reason to believe that it currently conducts any business or maintains any assets in the State of New York.

3. However, I have learned that R.D. Simpson Inc. owns at least two parcels of real property in Bartow County, Georgia. Those properties are located on Fenton Road and Zena Drive in the town of Cartersville and are identified by the Bartow County Board of Assessors as parcel numbers C063-0003-018 and C094-0001-003. There are no liens recorded against either parcel and I believe that they could be executed upon to at least partially satisfy the judgment against R.D. Simpson, Inc.

3. For the reasons stated in the accompanying letter to the Court I respectfully request that the Court grant permission for Plaintiff to register the judgment against R.D. Simpson, Inc. in the United States District Court for the Northern District of Georgia pursuant to 28 U.S.C. 1963.

Date: New York, New York
August 20, 2015



Paul S. Hugel